

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Richard J. Klein,
Petitioner

vs.

Case No. 1:01cv794
(Beckwith, J.; Perelman, M.J.)

Harold Carter,
Respondent

ORDER

Petitioner, an inmate in state custody at the Ross Correctional Institution in Chillicothe, Ohio, has filed this pro se action for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter is before the Court on petitioner's motion to strike respondent's response (Doc. 29) in opposition to petitioner's motion for sanctions and a default judgment. (Doc. 30).

Petitioner asserts that the response is frivolous and lacking in a factual basis, among other claims. This Court considered respondent's response and found it to be meritorious. In conjunction with this Order, the undersigned recommended that petitioner's motion for sanctions and a default judgment be denied, in part relying on the grounds respondent supplied in his response to the motion.

Accordingly, petitioner's motion to strike respondent's response to petitioner's motion for sanctions and a default judgment (Doc. 30) is DENIED.

Date: March 8, 2004

Hr

S/David S. Perelman

David S. Perelman
United States Magistrate Judge